

PUBLIC

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
THE LIBRARY OF CONGRESS
Washington, D.C.

DEC 22 2014

In the Matter of

**DETERMINATION OF ROYALTY RATES
FOR DIGITAL PERFORMANCE IN SOUND
RECORDINGS AND EPHEMERAL
RECORDINGS (*WEB IV*)**

**Docket No. 14-CRB-0001-WR
(2016-2010)**

**REPLY IN SUPPORT OF MOTION TO COMPEL SOUNDEXCHANGE TO
PRODUCE DOCUMENTS IN RESPONSE TO LICENSEE PARTICIPANTS' FIRST
AND SECOND SETS OF REQUESTS FOR PRODUCTION**

The parties have reached agreement on several of the issues raised by Motion to Compel SoundExchange To Produce Documents in Response to Licensee Participants' First and Second Sets of Requests for Production filed by Pandora Media, Inc. ("Pandora"), iHeartMedia, Inc. ("iHeartMedia"), the National Association of Broadcasters ("NAB"), the National Religious Broadcasters Noncommercial Music License Committee ("NRBNMLC"), and Sirius XM Radio Inc. ("Sirius XM") (collectively, "Movants"). *See* Joint Notice of Resolution of Certain Pending Motions (Dec. 16, 2014). This reply addresses the remaining categories on which SoundExchange has maintained its refusal to provide documents directly related to its written direct testimony.

**I. THE REQUESTED REGULATORY SUBMISSIONS REGARDING THE
UMG-EMI MERGER ARE DIRECTLY RELATED TO SOUNDEXCHANGE'S
WRITTEN DIRECT STATEMENT AND SHOULD BE PRODUCED
(REQUEST 155)**

The dispute over the Services' request for regulatory submissions regarding the UMG-EMI merger (RFP No. 155) boils down to one simple question: Should SoundExchange and its principal economic expert, Dr. Daniel Rubinfeld, be permitted to present the primary

ORIGINAL *rw*

benchmark they advance in this case—the major record labels’ license agreements with interactive streaming services—and defend that benchmark as the product of a competitive market, while at the same time concealing prior contrary representations by the record labels *and by Dr. Rubinfeld himself* to government authorities that [REDACTED]

[REDACTED]? SoundExchange and Dr. Rubinfeld have now admitted—just as the Services suspected—that the requested regulatory submissions, including economic analyses authored by Dr. Rubinfeld, contain arguments that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Given SoundExchange’s total reliance on its interactive license benchmark as the basis of its rate proposal, there can be no question that the requested submissions analyzing that very market are not only directly related to SoundExchange’s written direct statement, but also essential for testing the probative value of SoundExchange’s rate proposal and the credibility of its principal economic expert witness.

A. Dr. Rubinfeld’s Own Regulatory Submissions Must Be Produced

The Services’ Motion explained there could be “little doubt” that the requested regulatory submissions “addressed the degree to which record companies compete in various markets,” including the “market for the licensing of interactive services.” Mot. at 5. SoundExchange and Dr. Rubinfeld have now confirmed that this is exactly the case: Dr. Rubinfeld testified at his December 11, 2014, deposition that [REDACTED]

[REDACTED]

[REDACTED] See Declaration of Matthew R. Huppert (“Huppert Decl.”) Ex. H (Rubinfeld Dep. Tr.) at 99; *see also* Opp’n at 8. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See id.* at 99-104 [REDACTED]

[REDACTED] finding that there was “limited direct competition” between UMG and EMI due to their complementary repertoires. *See* Mot. at 5-6 (quoting FTC closing statement). Yet here—a proceeding where the guiding rate standard requires benchmarks from an effectively competitive market—Dr. Rubinfeld and SoundExchange build their written direct case around these very licenses with interactive services. *See* Mot. at 4.

The Services were not even aware of Dr. Rubinfeld’s regulatory submissions until his deposition (three days after the Motion was filed), because Dr. Rubinfeld’s experience with the UMG-EMI merger appears nowhere on his *curriculum vitae*, nor is it mentioned anywhere in his written direct testimony. Incredibly, SoundExchange now spins this glaring omission as the very reason that Dr. Rubinfeld’s regulatory submissions are not “directly related” to his testimony here. *See* Opp’n at 6-7. But there is no credible construction of the “directly related” standard under which a party’s principal economic witness’s own recent competitive analysis of the very market he now advances as his primary benchmark, submitted to federal regulatory authorities, is not “directly related” to that party’s written direct statement. SoundExchange’s effort to hide that analysis does not alter its direct relationship to Dr. Rubinfeld’s testimony. *See* Order Denying, Without Prejudice, Motions for Issuance of Subpoenas Filed by Pandora Media, Inc. and the National Association of Broadcasters, Docket No. 14-CRB-0001-WR (2016-2020) (Apr. 3, 2014) (holding that a participant’s “decision regarding the benchmark information it chooses to omit from its Written Direct Statement and/or testimony may be as ‘directly related’ to that Written Direct Statement and/or testimony as the benchmark information it elects to include in

those submissions”).

SoundExchange’s bizarre contention that Dr. Rubinfeld’s regulatory submissions are not “evidence” at all, *see* Opp’n at 8, is plainly without merit. First of all, whether a document is “evidence” is a separate question that does not determine whether it is discoverable in the first instance. Moreover, SoundExchange cites no authority to suggest that documents prepared by economic consultants should be excluded from the evidentiary record here. SoundExchange is relying in this case on the economic opinions of Dr. Rubinfeld about the very same market addressed in his regulatory submissions, and Dr. Rubinfeld’s submissions undoubtedly discuss his opinions of the relevant characteristics of that market, supported by citations to relevant facts.¹

In sum, the very same expert on whom SoundExchange now relies to proffer interactive streaming licenses as competitive “benchmarks” has, in the past, [REDACTED]

[REDACTED] It is difficult to imagine documents that could be more “directly related” to the merits of SoundExchange’s written direct statement—and to the credibility of SoundExchange’s lead witness—than Dr. Rubinfeld’s own regulatory submissions supporting the UMG-EMI merger. Those documents should be produced.²

¹ The Services’ request includes any accompanying *exhibits* to those submissions, which SoundExchange concedes *are* evidence. *See id.*

² In addition to being responsive to RFP No. 155, Dr. Rubinfeld’s regulatory submissions are also responsive and must be produced pursuant to the Services’ RFP No. 93—a request for prior reports, testimony, or opinions (with exhibits) submitted by its testifying expert witnesses to any judicial or regulatory proceeding, which discuss the subject matter of his or her testimony—in response to which SoundExchange agreed to produce documents. *See* Huppert Decl. Ex. I (SoundExchange’s response to request for prior reports, testimony, or opinions by its testifying expert witnesses). As noted above, not until Dr. Rubinfeld’s December 11, 2014 deposition (three days after this motion was filed) did the Services learn that SoundExchange had failed to produce Dr. Rubinfeld’s regulatory submissions in satisfaction of RFP No. 93.

B. Other Regulatory Submissions by the Major Record Labels Also Must Be Produced

Beyond Dr. Rubinfeld's own submissions, SoundExchange also should be compelled to produce the briefs, whitepapers, and other submissions to the FTC and EC made by any major record label in connection with the UMG-EMI merger. *See* Mot. at 3. Each of those major labels offered its on-demand service license agreements to SoundExchange to use as its primary benchmark and presented witness testimony supporting that benchmark. There is now every reason to believe that those submissions, like Dr. Rubinfeld's, contain arguments (that is, concessions) that directly undermine SoundExchange's benchmark proposal, which relies on the presumption of effective competition among the major record labels in the market for licensing interactive streaming services.

In an effort to avoid production of these key documents, SoundExchange offers an artificially narrowed definition of what it means to be "directly related." Without citation or support, SoundExchange argues that the submissions to the agencies are not directly related to its case because its witnesses do not "refer to" or "rely on" the documents requested. *See* Opp'n at 6. Contrary to SoundExchange's machinations, the "directly related" standard is not so limited, and encompasses documents that, although not expressly referenced, are related to a topic that a participant puts "in issue" in its written direct statement. Order Granting in Part and Denying in Part SoundExchange's Motion to Compel Music Choice to Produce Documents and Respond to Interrogatories, Docket No. 2011-1 CRB PSS/Satellite II (Aug. 8, 2012) (finding that the subject matter of the requested documents was "very much a part of [the participant's] case"); *see also*

Mot. at 2-3. In reality, the requested documents are not only directly related to SoundExchange's written direct statement—they are of central importance to this proceeding.³

Nor may SoundExchange withhold the regulatory submissions merely because they contend that the documents *also* contain other material unrelated to the market for interactive streaming. *See* Opp'n at 7. It is hornbook law that the presence of non-responsive material in documents is no reason to withhold their production when the documents contain responsive material. The Services have tailored their request as narrowly as practicable to include only the briefs, whitepapers, and other submissions (including their exhibits), rather than the panoply of documents produced to the FTC and EC in the course of the investigations. SoundExchange does not, and cannot, argue that producing this narrow set of materials would pose an undue burden.

That the requested briefs and whitepapers reflect "statements of attorneys," *see* Opp'n at 8, does not alter the analysis. Even if attorney arguments were not themselves "evidence" before the regulatory agencies to which they were presented, that does not make them non-discoverable here. Such arguments, made on behalf of the attorneys' major label clients, are not only relevant to the extent they are inconsistent with, and squarely undermine, SoundExchange's benchmark

³ For this reason, SoundExchange's analogy to its own request for documents produced by Pandora in its ASCAP and BMI rate-court proceedings is inapt. *See* Opposition at 7-8. Unlike the Services' request here, which is reasonably limited to briefs, whitepapers, and similar submissions to obtain targeted discovery concerning representations of the lack of competition in the market for interactive services, SoundExchange's request would have required review and production of *the entirety* of Pandora's vast productions to ASCAP and BMI, which included hundreds of thousands of documents. *See* Huppert Decl. Ex. J (SoundExchange's RFP No. 43). As SoundExchange itself has acknowledged, the rights at issue in the ASCAP and BMI proceedings are "not even at issue in this proceeding." *See* Huppert Decl. Ex. K (SoundExchange's Response to Services' RFP No. 161). SoundExchange's request for "all" documents produced in those proceedings was thus spectacularly and incurably overbroad, and would have called for the production of hundreds of thousands of pages bearing no relation whatsoever to this proceeding. Notably, SoundExchange dropped the request and never moved to compel production of these documents.

and position in this proceeding (particularly since they were adopted by the regulatory authority or tribunal), but admissions against interest. As noted above, the requested documents also encompass, at the very least, statements of expert economists and accompanying exhibits that are not “arguments of attorneys.”

SoundExchange notes that the Judges previously denied a motion to compel “similar discovery from regulatory investigations” by the U.S. Department of Justice (DOJ) and the New York Attorney General (NYAG). Opp’n at 6. But in selectively quoting the Judges’ opinion, *see id.*, SoundExchange omits the Judges’ primary reason for the decision. The full sentence reads:

We agree and deny the motion with respect to Interrogatory No. 4 and related document requests *because the requests are unduly burdensome and expensive* and well beyond the contemplation of the relatively limited discovery in the statute that governs the instant proceeding.

Order Denying Motion of Sirius Satellite Radio Inc., XM Satellite Radio Inc. and Music Choice to Compel SoundExchange to Provide Discovery Relating to Competition Among Record Labels at 2, Docket No. 2006-01 CRB DSTRA (May 18, 2007) (*Satellite I*) (emphasis added). The request in *Satellite I* was “unduly burdensome and expensive” because, quite unlike the Services’ tailored request here, it was *not* limited to briefs and whitepapers but rather included *all* documents “relating to the major record labels’ involvement” with the DOJ and NYAG investigations, including “each document produced to either agency in connection with those investigations.” *Id.* at 1. There is no similar request, and thus no similar burden, here.

SoundExchange urges the Services to look to the “interactive streaming agreements themselves,” on which the “briefs and white papers rely,” Opposition at 8. But in addition to being at odds with the discovery standard guiding this proceeding, *see* Motion at 2-3, those agreements themselves obviously say nothing about whether they were entered in an effectively

competitive market environment. *That* is the key question in determining the probative value of SoundExchange's proposed benchmarks, and something that necessarily resides in other documents surrounding the agreements, including the requested regulatory submissions as well as the documents sought in the Services' separate motion for negotiating documents. For all of these reasons, the Services' Motion should be granted.

II. THE JUDGES SHOULD COMPEL SOUNDEXCHANGE TO PRODUCE DOCUMENTS REGARDING THE NEGOTIATION OF THE SIRIUS XM AND NAB WEBCASTER SETTLEMENT ACT AGREEMENTS (REQUEUST 156)

SoundExchange refuses to produce *any* documents responsive to RFP 156 on two grounds: (1) the documents are not "directly related" to SoundExchange's Written Direct Statement; and (2) burden. *See* Opp'n at 9-10. Neither objection justifies SoundExchange's refusal to comply with this narrowly-tailored and proper discovery request.

Contrary to SoundExchange's position, the Copyright Royalty Judges have established firm precedent that a witness need not expressly rely on a document to be considered "directly related" to the witness's testimony. *See* Mot. at 2-3 (citing various Orders compelling production of documents not mentioned or considered by witnesses). SoundExchange admits that Dr. Rubinfeld, SoundExchange's principal economic witness, directly refers to the WSA Settlement Agreements by acknowledging that the WSA Settlement Agreements "established the current rates paid by the NAB and Sirius XM. . . [and] Dr. Rubinfeld refers to the current rates and the fact of how they were obtained." Opp'n at 9. The "*how*" is necessarily through *negotiations*.

The rates contained in the WSA Settlement Agreements were created through the parties' respective negotiations; SoundExchange should not be permitted to divorce the two or claim the rates arose *sua sponte*. In view of the Judges' prior Orders and Dr. Rubinfeld's testimony, the

Judges should order SoundExchange to produce documents responsive to RFP 156 to enable the Services to understand the full genesis and circumstances surrounding the negotiation of the WSA Settlement Agreements from SoundExchange's perspective.

SoundExchange's argument that the discovery sought would pose an undue burden because SoundExchange's internal communications about settlement negotiations would be "overwhelmingly privileged", Opp'n at 10, is unavailing. SoundExchange supplies no current or controlling legal authority to support its position. Moreover, SoundExchange offers no specifics on the number of documents involved or the cost of a document/privilege review. As discussed in the Omnibus Motion, the number of custodians is likely to be limited because a discrete number of people would have been involved in the negotiations either by directly negotiating the WSA Settlement Agreements or supporting the negotiations. *See* Mot. at 10. And, the time period from which to collect documents is limited to approximately ten months. *See id.* SoundExchange also fails to mention that the burden of the privilege review on which it stakes its refusal to produce is mitigated by the parties' agreement on a "clawback" provision to return any inadvertently produced privileged documents. *See* Protective Order (Oct. 10, 2014), at 4-5, § IV.E. SoundExchange's privilege review, therefore, is strictly optional and unnecessary to protect any privilege from subject matter waiver.

In very similar circumstances, the District Court of the District of Columbia overruled objections and ordered discovery. *See U.S. Dep't of the Treasury v. Pension Benefit Guar. Corp.*, 301 F.R.D. 20 (D.D.C. 2014). In that case, a party served the U.S. Department of Treasury ("Treasury") with a narrow subpoena *duces tecum* seeking "documents created, received or reviewed by three Treasury officials, over a single calendar year, relating only to

Delphi.” *Id.* at 28; *compare* Mot. at 10 (the Services are only seeking documents over a 10 month period from a few high level personnel). Treasury filed a motion to quash on several grounds, including burden. In denying Treasury’s motion to quash, the court ruled:

Treasury’s remaining claim of burdensomeness is that it will have to make privilege determinations for the documents. This naked assertion is insufficient to quash the subpoena for two reasons. First, Treasury offers no support for its claim that a substantial number of the documents will be privileged. There is no basis for the Court to impose the ‘extraordinary measure’ of quashing a subpoena, 231 F.R.D. at 102, based on a ‘purely speculative’ privilege claim. *Northrop*, 751 F.2d at 405. Second, most subpoenas duces tecum require the recipient to conduct a privilege review. If the ‘good cause’ requirement for quashing a subpoena could be met by a bare assertion that privilege review constitutes an undue burden, discovery under the Federal Rules would quickly grind to a halt.

Id. at 29; *cf. Northrop Corp. v. McDonnell Douglas Corp.*, 751 F.2d 395, 404-405 (D.C. Cir. 1984) (explaining that “[i]t is premature for State to assert or even insinuate a claim of the state secrets privilege over these documents[]” where the documents have not yet been retrieved and, therefore, not examined). Likewise, SoundExchange has advanced a purely speculative privilege claim that should be similarly overruled.

SoundExchange’s naked assertion that internal communications would be “overwhelmingly privileged” is vague as to the particular privilege that would shield such communications from disclosure, and ignores the fact that many of these communications are likely to be communications related to business, as contrasted with legal, advice, and thus not protected by the attorney-client privilege or work-product doctrine. *See, e.g., Koumoulis v. Indep. Fin. Mktg. Group*, Case No. 10-CV-0887, 2014 U.S. Dist. LEXIS 7695, *5-6 (E.D.N.Y. Jan. 21, 2014) (unpublished) (“Only those communications related to legal, as contrasted with business, advice are protected by attorney-client or work-product privilege.”).

Finally, the Services, including Sirius XM, Pandora and iHeartMedia, conducted privilege reviews in response to SoundExchange’s requests for certain negotiation documents.

See Mot. at 10-11 & n.4. Under the ancient and commonsense “sauce” rule (i.e., “what is sauce for the goose is sauce for the gander”), SoundExchange should be expected to do the same. Thus, the Judges should grant the Services’ Motion To Compel and order SoundExchange to respond completely to Request No. 156.

III. CONTRARY TO SOUNDEXCHANGE’S CLAIM, THE UNREDACTED PRIOR EXPERT TESTIMONY THE LICENSEES SEEK IS DIRECTLY RELATED TO SOUNDEXCHANGE’S WRITTEN DIRECT TESTIMONY AND IS PROPERLY DISCOVERABLE IN THIS PROCEEDING (REQUEST 159)

SoundExchange does not dispute that (i) its entire case in this proceeding hinges on its proffered interactive services fee benchmark; (ii) this same interactive services fee benchmark was previously proposed by both Drs. Pelcovits and Ordoover in prior rate-setting proceedings; (iii) this proffered interactive services fee benchmark is the centerpiece of Dr. Rubinfeld’s present testimony; or (iv) Dr. Rubinfeld considered the prior Pelcovits and Ordoover testimony in redacted form in reaching his opinions. Instead, SoundExchange takes issue with whether Dr. Rubinfeld “adopts” or “expressly relies on” the prior Restricted testimony and places great weight on the fact that Dr. Rubinfeld was shown only the redacted version of the testimony at issue.

SoundExchange’s underlying premise that the discovery sought is not directly related to its written direct statement because Dr. Rubinfeld has not reviewed or relied on it is flawed. Opp’n at 10. SoundExchange ignores the CRB precedent that has rejected that very proposition. *See* Order Granting in Part and Denying in Part Services’ Motion To Compel SoundExchange to Provide Digital Music Agreements, Docket No. 2011-1 CRB PSS/Satellite II (Mar. 13, 2012) (ordering SoundExchange to produce certain licensing agreements, even though some agreements were not considered by SoundExchange’s expert). Stripped of this faulty premise, SoundExchange’s “not directly related” argument fails.

There can be no question that Dr. Rubinfeld has placed at issue the methodologies regarding interactive service agreements as benchmarks previously espoused by SoundExchange's experts in these other proceedings. Indeed, Dr. Rubinfeld not only considered this prior testimony, *see, e.g.*, Rubinfeld WDT at ¶¶ 21, 66, 207 & n.124, but he also expressly testifies that he "follow[ed] past practices," and cites Dr. Pelcovits in Web II and Web III as the past practice he "follow[ed]." *Id.* at 207 & n.124. Having chosen to rely on such "past practices" based on Dr. Rubinfeld's review of partial testimony, SoundExchange should not be permitted to withhold the remainder of that testimony that Dr. Rubinfeld did not consider. The Licensees are entitled to have the full testimony to explore fully the validity of the "past practices" Dr. Rubinfeld purports to apply, including whether he failed to consider information that might undermine or otherwise change his opinion. The requested testimony is directly related to SoundExchange's written direct statement, and its production should be compelled.

SoundExchange's position that prior protective orders prohibit the requested discovery is simply wrong. As an initial matter, the protective orders in the applicable proceedings placed no limitation on the party producing confidential information (the "Producing Party") – they restricted only the parties receiving confidential information (the "Reviewing Parties"). *See* Dec. 15, 2014 Declaration of Rose Leda Ehler in Support of SoundExchange's Opp'n ("Ehler Decl.") Ex. B ¶ 6 (SDARS II Protective Order, providing that "Protected Materials . . . shall be used by a **Reviewing Party** solely for the purpose of this proceeding.") (emphasis added); Ehler Decl. Ex. C ¶ 6 (Web III Protective order, providing same); Ehler Decl. Ex. D ¶ 6 (SDARS I Protective Order, providing same); Ehler Decl. Ex. E ¶ 6 (Web II Protective Order, providing same). In the case of the direct testimony of Drs. Pelcovits and Ordovery, SoundExchange was the "Producing Party," so the protective orders do not limit its ability to disclose that testimony.

Moreover, SoundExchange admits that it has the ability to produce prior Restricted testimony of SoundExchange and its members. *See* Opp'n at 12 (noting its production of the prior Restricted testimony of Aaron Harrison). By its own admission, therefore, SoundExchange is withholding information that it has the ability to produce. Additionally, SoundExchange's nebulous claim that the requested discovery includes Restricted information of third parties is unsubstantiated. SoundExchange has identified no specific third-party information that it does not have the authority to produce, nor represented that any nonparticipating third party has been notified of or objects to the requested discovery.⁴

Moreover, the Judges' October 30, 2014 Standing Order requires production of third-party confidential information that is "otherwise discoverable under the Act, the Judges' procedural rules or the orders entered in this proceeding . . . irrespective of whether third-party consent has been requested or received by the producing party." *See* Order Granting Services' Joint Motion to Compel SoundExchange to Produce License Agreements and Other Documents Withheld on Confidentiality Grounds, Docket No. 14-CRB-0001-WR (2016-2020) (Oct. 30, 2014). As discussed above, the requested documents are otherwise discoverable under the Act and the Judges' procedural rules, as they are directly related to SoundExchange's written direct statement. *See* 17 U.S.C. § 803(b)(6)(C)(v); 37 C.F.R. § 351.5(b) ("nonprivileged documents

⁴ SoundExchange's attempt to shield from discovery the complete versions of testimony its expert considered in redacted form is further undermined by the Judges' procedural rules governing the designation of prior testimony in later proceedings. *See* 37 CFR 351.4(b)(2) ("Each participating party may designate a portion of past records, including records of the Copyright Royalty Tribunal or Copyright Arbitration Royalty Panels, that it wants included in its direct statement. If a party intends to rely on any part of the testimony of a witness in a prior proceeding, the complete testimony of that witness (i.e., direct, cross and redirect examination) must be designated. The party submitting such past records and/or testimony shall include a copy with the written direct statement."). This rule confirms that production of incomplete testimony is disfavored. The same rationale for not permitting participants to designate portions of prior testimony while withholding the remainder militates against allowing a participant to have its expert consider and testify about partial testimony without disclosing the full testimony.

directly related to the written direct statement or written rebuttal statement of [a] participant” are discoverable). As such, for the purposes of this proceeding the Judges’ Standing Order supersedes any prior protective orders issued by the Judges and permits production of this “otherwise discoverable information.”⁵

SoundExchange’s position undermines the intent of the Judges’ Standing Order, which was to prevent participants from obstructing the discovery of information directly related to its written testimony on third-party confidentiality grounds. Even if any third-party confidential information were implicated here, the Protective Order entered in this proceeding protects such information to the same extent that it protects any other third-party information that is subject to that Standing Order. Accordingly, there is no prejudice to any third party and the Judges should clarify that such production is permitted.

The Licensees’ motion to compel production of the complete prior testimony of Drs. Pelcovits and Ordovery, and the associated exhibits, should be granted.

IV. THE JUDGES SHOULD COMPEL THE PRODUCTION OF MEETING MINUTES OF THE EXECUTIVE COMMITTEE AND LICENSING COMMITTEE OF ITS BOARD OF DIRECTORS (REQUEST 76)

A. SoundExchange’s Opposition Confirms That Its Board of Directors Meeting Minutes From 2012-2014 Should Be Produced (First Request No. 76)⁶

In an attempt to prevent disclosure of the minutes of SoundExchange’s Board of Directors, SoundExchange asks the Judges to believe that its sole reason for existing is to

⁵ SoundExchange’s argument that “[t]he requested material is explicitly *not* discoverable under orders entered in the prior proceedings” (Opp’n at 12) misses the point, and is incorrect. The Judge’s Standing Order in this proceeding requires the production of otherwise discoverable third-party confidential information “without delay.”

⁶ SoundExchange represented for the first time in its opposition that Licensing and Executive Committee minutes “do not exist.” Opp’n at 13. In reliance upon this representation, Licensee Participants seek only the Board minutes for the past 24 months, which are likely to include the pertinent information sought.

litigate. Opp'n at 12, 13 (arguing that the "only reason" the Licensee Participants would seek such minutes is to learn SoundExchange's litigation strategy in this proceeding). By statute, however, SoundExchange exists to negotiate royalty rates and terms for copyright owners and performers of sound recordings. See 17 U.S.C. § 114(e)(1). That is, fundamentally, a business function. And SoundExchange's own President & CEO, Michael Huppe, testified about the Board of Directors' important role in what he describes as SoundExchange's "core operational goal" – ensuring "that every artist and record label receives its fair share of royalties from statutory licenses." Huppe WDT ¶8 (Oct. 6, 2014). Licensee Participants seek SoundExchange's Board of Directors meeting minutes to assess, among other things, SoundExchange's business licensing strategy for webcasting services, which is directly related to this case, and to test the testimony of its officers in this case.

Even if SoundExchange's Board discusses nothing related to webcasting other than litigation strategy, that would not preclude discovery of the Board's meeting minutes. SoundExchange makes unsubstantiated claims that Board meetings "devoted to legal issues *often* include both in-house lawyers as well as outside counsel" and that "those discussions *would certainly* be privileged." Opp'n at 13-14 (emphases added). Such attorney speculation of purported privilege cannot preclude discovery of the requested meeting minutes. SoundExchange does not deny that the "the mere fact that in-house counsel is present at a meeting does not shield otherwise unprivileged communications from disclosure" Mot. at 22, quoting *Neuder v. Battelle Pac. Nw. Nat'l Lab.*, 194 F.R.D. 289, 293 (D.D.C. 2000). And discussions of so-called "litigation strategy" are not privileged if such discussions are between business people – unless those discussions are in connection with receiving or obtaining legal advice. As such, the meeting minutes are not per se shielded from discovery.

SoundExchange's claims of burden (Opp'n at 12) are equally ill-founded. Based on SoundExchange's recent representation that there are no Licensing Committee or Executive Committee minutes (Opp'n at 13), the only documents sought by Licensee Participants are the Board minutes for the past 24 months. SoundExchange concedes that the Board only "meets in person twice a year and more frequently by phone conference." Opp'n at 13. Therefore, there are, at most, a handful of meeting minutes in dispute and a review, and redaction of privileged information from such a limited number of documents can hardly be considered burdensome.

SoundExchange's further attempt to prevent disclosure of its meeting minutes – based on its claim that "the appropriate rates for *webcasting*" are "only a sliver of SoundExchange's work" (Opp'n at 13) – is specious. The documents that SoundExchange produced and the testimony of its witnesses confirm that the majority of the royalties it collects is from webcasting. And both SoundExchange and its witnesses have emphasized the importance of the statutory royalties it receives from webcasting. *E.g.*, SoundExchange Annual Report for 2013, at 4 & n.2, *available at* <http://www.soundexchange.com/wp-content/uploads/2014/06/2013-SoundExchange-Fiscal-Report.pdf>; Blackburn WDT ¶ 23 and Tbl. 2 (Oct. 6, 2014); Bender WDT at 5 (Oct. 6, 2014) (stating that SoundExchange "processes royalties related to tens of billions of webcasting performances each month" and paid out nearly \$600 million in statutory royalties in 2013 alone).

Moreover, even if the Board discusses topics unrelated to the licensing and royalties related to statutory webcasting, it is well established that documents that contain responsive information are not shielded from discovery simply because such documents also include additional information. *See Beverage Distributors, Inc. v. Miller Brewing Co.*, No. 2:08-CV-1112, 2010 WL 1727640, at *4 (S.D. Ohio Apr. 28, 2010) (ordering defendants to produce

complete, unredacted documents that the defendants contended contained irrelevant information); *Orion Power Midwest, L.P. v. Am. Coal Sales Co.*, No. 2:05-CV-555, 2008 WL 4462301, at *2 & n.3 (W.D. Pa. Sept. 30, 2008) (ordering defendants to produce complete, unredacted documents except where an “entire document is non-responsive”).

Finally, SoundExchange contends that it has “exhaustively and diligently attempted to satisfy” the Licensee Participants’ requests in producing responsive documents in this proceeding, including documents related to (a) “the strategy for digital licensing from each of the major recorded music companies,” (b) “the promotional/substitutional impact of music streaming services (among other methods of listening to music);” (c) “the shift from an ownership to an access model of consuming music;” (d) “the convergence between music streaming services;” (e) the competition between music streaming services;” and (f) “the amounts paid to SoundExchange by licensees of various types and the supporting statements of account.” Opp’n at 2-3. SoundExchange’s refusal to review and produce any Board meeting minutes covering the last 24 months is particularly troubling because such minutes likely also include information related to the above-identified categories of documents that SoundExchange claims to have produced in an “exhaustive[]” fashion. Opp’n at 2.

For all of these reasons and for the reasons set forth in Licensee Participants’ motion, the Judges should compel SoundExchange to produce the meeting minutes from its Board of Directors for the past 24 months (2012-2014).

CONCLUSION

For the foregoing reasons, the extant portions of the instant Motion should be granted, and SoundExchange should be compelled to produce all documents requested above.

Dated: December 19, 2014
Washington, DC

By: /s/ R. Bruce Rich
R. Bruce Rich
Todd D. Larson
Sabrina A. Perelman
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Tel: 212.310.8000
Fax: 212.310.8007
r.bruce.rich@weil.com
todd.larson@weil.com
sabrina.perelman@weil.com

Counsel for Pandora Media, Inc.

By: /s/ John Thorne
John Thorne
Evan T. Leo
Kellogg, Huber, Hansen,
Todd, Evans & Figel, P.L.L.C.
1615 M Street, NW, Suite 400
Washington, DC 20036
jthorne@khhte.com
eleo@khhte.com
Tel: 202-326-7900
Fax: 202-326-7999

Counsel for iHeartMedia, Inc.

By: /s/ Bruce G. Joseph
Bruce G. Joseph
Karyn K. Ablin
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
bjoseph@wileyrein.com
kablin@wileyrein.com
msturm@wileyrein.com
jelgin@wileyrein.com
Tel: 202-719-7000
Fax: 202-719-7049

*Counsel for the National Association of
Broadcasters and National Religious
Broadcasters Noncommercial Music
License Committee*

By: /s/ Paul Fakler
Paul Fakler
Arent Fox LLP
1675 Broadway
New York, NY 10019
paul.fakler@arentfox.com
Tel: 202-857-6000
Fax: 202-857-6395

Counsel for Sirius XM Radio, Inc.

CERTIFICATE OF SERVICE

I, Matthew R. Huppert, hereby certify that a copy of the foregoing PUBLIC version of the Reply in Support of Motion to Compel SoundExchange to Produce Documents in Response to Licensee Participants' First and Second Set of Requests for Production has been served on this 19th day of December 2014 on the following persons:

<p>Kurt Hanson AccuRadio, LLC 65 E. Wacker Place, Suite 930 Chicago, IL 60601 kurt@accuradio.com</p> <p><i>AccuRadio, LLC</i></p>	<p>Jeffrey J. Jarmuth Law Offices of Jeffrey J. Jarmuth 34 E. Elm Street Chicago, IL 60611-1016 jeff.jarmuth@jarmuthlawoffices.com</p> <p><i>Counsel for AccuRadio, LLC</i></p>
<p>Catherine R. Gellis CGCounsel P.O. Box 2477 Sausalito, CA 94966 cathy@cgcounsel.com</p> <p><i>College Broadcasters, Inc.</i></p>	<p>David D. Golden Constantine Cannon LLP 1001 Pennsylvania Avenue NW, Suite 1300N Washington, DC 20004 dgolden@constantinecannon.com</p> <p><i>Counsel for College Broadcasters, Inc.</i></p>
<p>David Oxenford Wilkinson Barker Knauer, LLP 2300 N Street, NW, Suite 700 Washington, DC 20037 doxenford@wbklaw.com</p> <p><i>Counsel for Educational Media Foundation and National Association of Broadcasters</i></p>	<p>Kevin Blair Brian Gantman Educational Media Foundation 5700 West Oaks Boulevard Rocklin, CA 95765 kblair@kloveair1.com bgantman@kloveair1.com</p> <p><i>Educational Media Foundation</i></p>
<p>George D. Johnson GEO Music Group 23 Music Square East, Suite 204 Nashville, TN 37203 george@georgejohnson.com</p> <p><i>GEO Music Group</i></p>	<p>William Malone Intercollegiate Broadcasting System, Inc. 40 Cobbler's Green 205 Main Street New Canaan, CT 06840-5636 malone@ieee.org</p> <p><i>Harvard Radio Broadcasting Co., Inc. And Intercollegiate Broadcasting System, Inc.</i></p>

<p>Frederick J. Kass Intercollegiate Broadcasting System, Inc. 367 Windsor Highway New Windsor, NY 12553-7900 ibs@ibsradio.org ibshq@aol.com</p> <p><i>Intercollegiate Broadcasting System, Inc.</i></p>	<p>Jane Mago, Esq. Suzanne Head National Association of Broadcasters 1771 N Street, NW Washington, DC 20036 jmago@nab.org shead@nab.org</p> <p><i>National Association of Broadcasters</i></p>
<p>Bruce G. Joseph Karyn K. Ablin Michael L. Sturm Wiley Rein LLP 1776 K Street, NW Washington, DC 20006 bjoseph@wileyrein.com kablin@wileyrein.com msturm@wileyrein.com</p> <p><i>Counsel for National Association of Broadcasters</i></p>	<p>Gregory A. Lewis National Public Radio, Inc. 1111 North Capitol Street, NE Washington, DC 20002 glewis@npr.org</p> <p><i>National Public Radio, Inc.</i></p>
<p>Kenneth L. Steinthal Joseph R. Wetzel King & Spalding LLP 101 Second Street, Suite 2300 San Francisco, CA 94105 ksteintal@kslaw.com jwetzel@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>	<p>Ethan Davis King & Spalding LLP 1700 Pennsylvania Avenue, NW Suite 200 Washington, DC 20006 edavis@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>
<p>Antonio E. Lewis King & Spalding, LLP 100 N. Tyron Street Suite 3900 Charlotte, NC 28202 alewis@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>	<p>Russ Hauth, Executive Director Harv Hendrickson, Chairman National Religious Broadcasters Noncommercial Music License Committee 3003 Snelling Avenue North Saint Paul, MN 55113 russh@saalem.cc hphendrickson@unwsp.edu</p> <p><i>National Religious Broadcasters Noncommercial Music License Committee</i></p>

<p>Karyn K. Ablin Jennifer L. Elgin Wiley Rein LLP 1776 K St. NW Washington, DC 20006 kablin@wileyrein.com jelgin@wileyrein.com</p> <p><i>Counsel for National Religious Broadcasters Noncommercial Music License Committee</i></p>	<p>Christopher Harrison Pandora Media, Inc. 2101 Webster Street, Suite 1650 Oakland, CA 94612 charrison@pandora.com</p> <p><i>Pandora Media, Inc.</i></p>
<p>R. Bruce Rich Todd D. Larson Sabrina A. Perelman Benjamin E. Marks Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153 r.bruce.rich@weil.com todd.larson@weil.com sabrina.perelman@weil.com benjamin.marks@weil.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>	<p>Gary R. Greenstein Wilson Sonsini Goodrich & Rosati 1700 K Street, NW, 5th Floor Washington, DC 20006 ggreenstein@wsgr.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>
<p>Jacob B. Ebin Akin Gump Strauss Hauer & Feld LLP One Bryant Park Bank of America Tower New York, NY 10036-6745 jebin@akingump.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>	<p>Cynthia Greer Sirius XM Radio Inc. 1500 Eckington Pl. NE Washington, DC 20002 cynthia.greer@siriusxm.com</p> <p><i>Sirius XM Radio Inc.</i></p>
<p>Patrick Donnelly Sirius XM Radio Inc. 1221 Avenue of the Americas 36th Floor New York, NY 10020 patrick.donnelly@siriusxm.com</p> <p><i>Sirius XM Radio Inc.</i></p>	<p>Paul Fakler Arent Fox LLP 1675 Broadway New York, NY 10019 paul.fakler@arentfox.com</p> <p><i>Counsel for Sirius XM Radio Inc.</i></p>

<p>Martin F. Cunniff Jackson D. Toof Arent Fox LLP 1717 K Street, NW Washington, DC 20006 martin.cunniff@arentfox.com jackson.toof@arentfox.com</p> <p><i>Counsel for Sirius XM Radio Inc.</i></p>	<p>C. Colin Rushing Bradley E. Prendergast SoundExchange, Inc. 733 10th Street, NW, 10th Floor Washington, DC 20001 crushing@soundexchange.com bprendergast@soundexchange.com</p> <p><i>SoundExchange, Inc.</i></p>
<p>Glenn D. Pomerantz Kelly M. Klaus Anjan Choudhury Melinda E. LeMoine Kuruvilla J. Olasa Jonathan Blavin Rose Leda Ehler Jennifer L. Bryant Munger, Tolles & Olson LLP 355 S. Grand Avenue, 35th Floor Los Angeles, CA 90071-1560 Glenn.Pomerantz@mto.com Kelly.Klaus@mto.com Anjan.Choudhury@mto.com Melinda.LeMoine@mto.com Kuruvill.Olasa@mto.com Jonathan.Blavin@mto.com Rose.Ehler@mto.com Jennifer.Bryant@mto.com</p> <p><i>Counsel for SoundExchange, Inc.</i></p>	

/s/ Matthew R. Huppert

Matthew R. Huppert
Evan T. Leo
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL, P.L.L.C.
1615 M Street, NW, Suite 400.
Washington, DC 20036
Telephone: (202) 326-7900
Facsimile: (202) 326-7999
mhuppert@khhte.com
eleo@khhte.com

Counsel for iHeartMedia, Inc.

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
THE LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of

DETERMINATION OF ROYALTY RATES)	Docket No. 14-CRB-0001-WR
FOR DIGITAL PERFORMANCE IN SOUND)	(2016-2020)
RECORDINGS AND EPHEMERAL)	
RECORDINGS (WEB IV))	

DECLARATION OF MATTHEW R. HUPPERT

1. I am an attorney at the law firm of Kellogg, Huber, Hansen, Todd, Evans & Figel P.L.L.C. I am counsel for iHeartMedia, Inc. in the above-captioned proceeding. I respectfully submit this declaration in support of this reply in support of the motion by Pandora Media, Inc., iHeartMedia, Inc., the National Association of Broadcasters, the National Religious Broadcasters Noncommercial Music License Committee, and Sirius XM Radio Inc. to compel SoundExchange, Inc. to produce documents in response to the Licensee Participants' first and second sets of requests for production of documents. I have personal knowledge of the facts stated herein.

2. Attached hereto as Exhibit H is a true and correct copy of excerpts from the transcript of the deposition of Dr. Daniel Rubinfeld, taken on December 11, 2014. This document is restricted under the Protective Order adopted by the CRB on October 10, 2014.

3. Attached hereto as Exhibit I is a true and correct copy of excerpts from SoundExchange, Inc.'s Responses and Objections to Licensee Participants' First Set of Requests for Production of Documents, dated November 7, 2014.

4. Attached hereto as Exhibit J is a true and correct copy of excerpts from SoundExchange, Inc.'s First Set of Requests for Production of Documents to Pandora Media, Inc., dated October 13, 2014.

5. Attached hereto as Exhibit K is a true and correct copy of excerpts from SoundExchange, Inc.'s Responses and Objections to Second Set of Requests for Production of Documents from Licensee Participants, dated December 3, 2014.

Pursuant to 28 U.S.C. § 1746 and 37 C.F.R. § 350.4(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Dated: December 19, 2014
Washington, DC

/s/ Matthew R. Huppert
Matthew R. Huppert (D.C. Bar No. 1010997)
KELLOGG HUBER HANSEN
TODD EVANS & FIGEL PLLC
1615 M. Street, N.W. Ste. 400
Washington, DC 20036
Tel. (202) 326-7900
Fax (202) 326-7999
mhuppert@khhte.com

Counsel for iHeartMedia, Inc.

CERTIFICATE OF SERVICE

I, Matthew R. Huppert, hereby certify that a copy of the foregoing PUBLIC version of the Declaration of Matthew R. Huppert for the Reply in Support of Motion to Compel SoundExchange to Produce Documents in Response to Licensee Participants' First and Second Set of Requests for Production has been served on this 19th day of December 2014 on the following persons:

Kurt Hanson AccuRadio, LLC 65 E. Wacker Place, Suite 930 Chicago, IL 60601 kurt@accuradio.com <i>AccuRadio, LLC</i>	Jeffrey J. Jarmuth Law Offices of Jeffrey J. Jarmuth 34 E. Elm Street Chicago, IL 60611-1016 jeff.jarmuth@jarmuthlawoffices.com <i>Counsel for AccuRadio, LLC</i>
Catherine R. Gellis CGCounsel P.O. Box 2477 Sausalito, CA 94966 cathy@cgcounsel.com <i>College Broadcasters, Inc.</i>	David D. Golden Constantine Cannon LLP 1001 Pennsylvania Avenue NW, Suite 1300N Washington, DC 20004 dgolden@constantinecannon.com <i>Counsel for College Broadcasters, Inc.</i>
David Oxenford Wilkinson Barker Knauer, LLP 2300 N Street, NW, Suite 700 Washington, DC 20037 doxenford@wbklaw.com <i>Counsel for Educational Media Foundation and National Association of Broadcasters</i>	Kevin Blair Brian Gantman Educational Media Foundation 5700 West Oaks Boulevard Rocklin, CA 95765 kblair@kloveair1.com bgantman@kloveair1.com <i>Educational Media Foundation</i>
George D. Johnson GEO Music Group 23 Music Square East, Suite 204 Nashville, TN 37203 george@georgejohnson.com <i>GEO Music Group</i>	William Malone Intercollegiate Broadcasting System, Inc. 40 Cobbler's Green 205 Main Street New Canaan, CT 06840-5636 malone@ieee.org <i>Harvard Radio Broadcasting Co., Inc. And Intercollegiate Broadcasting System, Inc.</i>

<p>Frederick J. Kass Intercollegiate Broadcasting System, Inc. 367 Windsor Highway New Windsor, NY 12553-7900 ibs@ibsradio.org ibshq@aol.com</p> <p><i>Intercollegiate Broadcasting System, Inc.</i></p>	<p>Jane Mago, Esq. Suzanne Head National Association of Broadcasters 1771 N Street, NW Washington, DC 20036 jmago@nab.org shead@nab.org</p> <p><i>National Association of Broadcasters</i></p>
<p>Bruce G. Joseph Karyn K. Ablin Michael L. Sturm Wiley Rein LLP 1776 K Street, NW Washington, DC 20006 bjoseph@wileyrein.com kablin@wileyrein.com msturm@wileyrein.com</p> <p><i>Counsel for National Association of Broadcasters</i></p>	<p>Gregory A. Lewis National Public Radio, Inc. 1111 North Capitol Street, NE Washington, DC 20002 glewis@npr.org</p> <p><i>National Public Radio, Inc.</i></p>
<p>Kenneth L. Steinthal Joseph R. Wetzel King & Spalding LLP 101 Second Street, Suite 2300 San Francisco, CA 94105 ksteinthal@kslaw.com jwetzel@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>	<p>Ethan Davis King & Spalding LLP 1700 Pennsylvania Avenue, NW Suite 200 Washington, DC 20006 edavis@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>
<p>Antonio E. Lewis King & Spalding, LLP 100 N. Tyron Street Suite 3900 Charlotte, NC 28202 alewis@kslaw.com</p> <p><i>Counsel for National Public Radio, Inc.</i></p>	<p>Russ Hauth, Executive Director Harv Hendrickson, Chairman National Religious Broadcasters Noncommercial Music License Committee 3003 Snelling Avenue North Saint Paul, MN 55113 russh@salem.cc hphendrickson@unwsp.edu</p> <p><i>National Religious Broadcasters Noncommercial Music License Committee</i></p>

<p>Karyn K. Ablin Jennifer L. Elgin Wiley Rein LLP 1776 K St. NW Washington, DC 20006 kablin@wileyrein.com jelgin@wileyrein.com</p> <p><i>Counsel for National Religious Broadcasters Noncommercial Music License Committee</i></p>	<p>Christopher Harrison Pandora Media, Inc. 2101 Webster Street, Suite 1650 Oakland, CA 94612 charrison@pandora.com</p> <p><i>Pandora Media, Inc.</i></p>
<p>R. Bruce Rich Todd D. Larson Sabrina A. Perelman Benjamin E. Marks Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, NY 10153 r.bruce.rich@weil.com todd.larson@weil.com sabrina.perelman@weil.com benjamin.marks@weil.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>	<p>Gary R. Greenstein Wilson Sonsini Goodrich & Rosati 1700 K Street, NW, 5th Floor Washington, DC 20006 ggreenstein@wsgr.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>
<p>Jacob B. Ebin Akin Gump Strauss Hauer & Feld LLP One Bryant Park Bank of America Tower New York, NY 10036-6745 jebin@akingump.com</p> <p><i>Counsel for Pandora Media, Inc.</i></p>	<p>Cynthia Greer Sirius XM Radio Inc. 1500 Eckington Pl. NE Washington, DC 20002 cynthia.greer@siriusxm.com</p> <p><i>Sirius XM Radio Inc.</i></p>
<p>Patrick Donnelly Sirius XM Radio Inc. 1221 Avenue of the Americas 36th Floor New York, NY 10020 patrick.donnelly@siriusxm.com</p> <p><i>Sirius XM Radio Inc.</i></p>	<p>Paul Fakler Arent Fox LLP 1675 Broadway New York, NY 10019 paul.fakler@arentfox.com</p> <p><i>Counsel for Sirius XM Radio Inc.</i></p>

<p>Martin F. Cunniff Jackson D. Toof Arent Fox LLP 1717 K Street, NW Washington, DC 20006 martin.cunniff@arentfox.com jackson.toof@arentfox.com</p> <p><i>Counsel for Sirius XM Radio Inc.</i></p>	<p>C. Colin Rushing Bradley E. Prendergast SoundExchange, Inc. 733 10th Street, NW, 10th Floor Washington, DC 20001 crushing@soundexchange.com bprendergast@soundexchange.com</p> <p><i>SoundExchange, Inc.</i></p>
<p>Glenn D. Pomerantz Kelly M. Klaus Anjan Choudhury Melinda E. LeMoine Kuruvilla J. Olasa Jonathan Blavin Rose Leda Ehler Jennifer L. Bryant Munger, Tolles & Olson LLP 355 S. Grand Avenue, 35th Floor Los Angeles, CA 90071-1560 Glenn.Pomerantz@mto.com Kelly.Klaus@mto.com Anjan.Choudhury@mto.com Melinda.LeMoine@mto.com Kuruvill.Olasa@mto.com Jonathan.Blavin@mto.com Rose.Ehler@mto.com Jennifer.Bryant@mto.com</p> <p><i>Counsel for SoundExchange, Inc.</i></p>	

/s/ Matthew R. Huppert

Matthew R. Huppert
Evan T. Leo
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL, P.L.L.C.
1615 M Street, NW, Suite 400.
Washington, DC 20036
Telephone: (202) 326-7900
Facsimile: (202) 326-7999
mhuppert@khhte.com
eleo@khhte.com

Counsel for iHeartMedia, Inc.

Exhibit H

PUBLIC

Exhibit Restricted in Its Entirety

Exhibit I

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In re:)	
)	
DETERMINATION OF ROYALTY)	Docket No. 14-CRB-0001-WR (2016-2020)
RATES AND TERMS FOR EPHEMERAL)	
RECORDING AND DIGITAL)	
PERFORMANCE OF SOUND)	
RECORDINGS (<i>WEB IV</i>))	

**SOUNDEXCHANGE, INC.'S RESPONSES AND OBJECTIONS TO LICENSEE
PARTICIPANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

GENERAL OBJECTIONS

1. SoundExchange, Inc. ("SoundExchange") objects to the Requests, including all Definitions and Instructions, to the extent they purport to impose upon SoundExchange requirements that exceed or are inconsistent with 17 U.S.C. § 803(b), 37 C.F.R. § 351.5, and any other applicable rule or order governing this proceeding, including applicable prior precedent.

2. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they seek documents that are not "directly related" to SoundExchange's written direct statement. See 17 U.S.C. § 803(b)(6)(C)(v), 37 C.F.R. § 351.5(b).

3. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they are ambiguous, duplicative, and/or vague.

4. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they are oppressive, harassing, overbroad and/or unduly burdensome.

SoundExchange already produced documents that were relied upon in preparing SoundExchange's witnesses' written direct testimony. SoundExchange agrees to produce additional responsive, non-privileged documents identified by its experts as directly related to their written direct testimony to the extent not already produced.

REQUEST FOR PRODUCTION NO. 93:

Each document constituting a report, testimony (whether in deposition, trial or hearing) or opinion, with exhibits, submitted by any of SoundExchange's testifying expert witnesses in any judicial or regulatory proceeding that discusses or otherwise relates to any of the subjects discussed in his Report, as well as any relating to terrestrial radio, any Digital Service, satellite radio, difference among types of Digital Audio Services, alleged convergence between noninteractive and interactive services, the promotional or substitutional effect of Digital Services or terrestrial radio, the efforts of record companies to obtain play on any Digital Service or terrestrial radio, the sound recording digital performance right, the role of technology improvements in the alleged growth of Digital Audio Services, benchmarking analysis of any type, definition of a relevant market, reasonable interchangeability of products, cross-elasticity of demand, and the potential convergence of two products or markets into a single relevant market.

RESPONSE TO REQUEST FOR PRODUCTION NO. 93:

SoundExchange objects to this request to the extent it seeks documents not "directly related" to SoundExchange's written direct statement. Specifically, terrestrial radio is not a "market[]" that [SoundExchange] identified in its submissions as relevant to determining webcasting rates and terms and that may have been considered by [SoundExchange] or its experts . . .", Order Granting Services Joint Motion to Compel SoundExchange to Produce License Agreements and Other Documents Withheld on Confidentiality Grounds (October 30, 2014). SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this request as overbroad, unduly burdensome, oppressive and harassing as it seeks documents related to a massive array of subjects and, the public versions of which, are readily available to Licensees and disclosed on SoundExchange's expert witnesses' CVs. SoundExchange objects to this request as compound because it seeks documents collected from every SoundExchange expert witness. SoundExchange further objects to the extent this request seeks documents the disclosure of which is protected or prohibited by law, regulation, protective order or non-disclosure agreement. SoundExchange objects to this request to the extent that it is not limited to time periods reasonably related to the matters at issue in this proceeding. SoundExchange objects to this request to the extent it seeks documents not maintained in the ordinary course of business.

Without waiver of and subject to SoundExchange's general and specific objections, SoundExchange agrees to produce responsive, non-privileged documents located after a reasonable and diligent search to the extent such documents exist as follows: SoundExchange already produced documents that were relied upon in preparing SoundExchange's witnesses' written direct testimony. SoundExchange agrees to produce

additional responsive, non-privileged documents identified by its experts as directly related to their written direct testimony to the extent not already produced.

REQUEST FOR PRODUCTION NO. 94:

Each document constituting or reflecting meetings, discussions or other communications between any of SoundExchange's testifying expert witnesses and record company personnel or record company representatives, including any meetings discussed or referenced in an expert's report.

RESPONSE TO REQUEST FOR PRODUCTION NO. 94:

SoundExchange objects to this request to the extent it seeks documents not "directly related" to SoundExchange's written direct statement. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this request as overbroad, unduly burdensome, oppressive and harassing. SoundExchange objects to this request to the extent it seeks documents which the parties have, by written agreement, agreed not to seek from or produce to one another. SoundExchange objects to this request as compound because it seeks documents collected from every SoundExchange expert witness. SoundExchange objects to this request to the extent it seeks documents not maintained in the ordinary course of business.

Without waiver of and subject to SoundExchange's general and specific objections, SoundExchange agrees to produce responsive, non-privileged documents located after a reasonable and diligent search to the extent such documents exist as follows: SoundExchange already produced documents that were relied upon in preparing SoundExchange's witnesses' written direct testimony. After conducting a reasonable search and inquiry into where documents are most likely to be found, SoundExchange has not located any additional responsive, non-privileged documents.

REQUEST FOR PRODUCTION NO. 95:

Each document constituting or reflecting any communication between any of SoundExchange testifying expert witness and any SoundExchange fact witness or any non-lawyer member or employee of SoundExchange pertaining to the subject matter of this proceeding or the subject matter of the expert's or any assertion therein.

RESPONSE TO REQUEST FOR PRODUCTION NO. 95:

SoundExchange objects to this request to the extent it seeks documents not "directly related" to SoundExchange's written direct statement. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this

RESPONSE TO REQUEST FOR PRODUCTION NO. 145:

SoundExchange objects to this request to the extent it seeks documents not “directly related” to SoundExchange’s written direct statement. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this request as overbroad, unduly burdensome, oppressive and harassing. SoundExchange further objects to this request, to the extent it seeks documents which the parties have, by written agreement, agreed not to seek from or produce to one another. SoundExchange objects to this request to the extent that it is not limited to time periods reasonably related to the matters at issue in this proceeding. SoundExchange has already produced documents relied upon by Dr. McFadden in its initial disclosures.

Without waiver of and subject to SoundExchange’s general and specific objections, SoundExchange agrees to produce responsive, non-privileged documents located after a reasonable and diligent search to the extent such documents exist as follows: SoundExchange already produced documents that were relied upon in preparing SoundExchange’s witnesses’ written direct testimony. SoundExchange agrees to produce those responsive, non-privileged documents reviewed or referred to in Dr. McFadden’s testimony to the extent not already produced.

Respectfully submitted,

By: /s/ Anjan Choudhury
Glenn D. Pomerantz (CA Bar 112503)
Kelly M. Klaus (CA Bar 161091)
Anjan Choudhury (DC Bar 497271)
MUNGER, TOLLES & OLSON LLP
355 S. Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
Facsimile: (213) 687-3702
Glenn.Pomerantz@mto.com
Kelly.Klaus@mto.com
Anjan.Choudhury@mto.com

Counsel for SoundExchange, Inc.

November 7, 2014




Exhibit J

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.

In re

DETERMINATION OF ROYALTY
RATES AND TERMS FOR
EPHEMERAL RECORDING AND
DIGITAL PERFORMANCE OF SOUND
RECORDINGS (*WEB IV*)

DOCKET NO. 14-CRB-0001-WR
(2016-2020)

**SOUNDEXCHANGE'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PANDORA MEDIA, INC.**

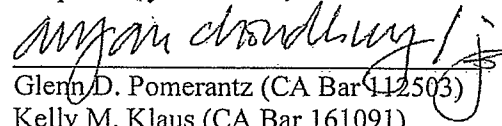
Pursuant to 17 U.S.C. § 803(b)(6)(C)(v) and 37 C.F.R. § 351.5(b)(1), SoundExchange, Inc. serves this First Set of Requests for Production of Documents on Pandora Media, Inc. These Requests are continuing in nature and may require supplementation.

DEFINITIONS AND INSTRUCTIONS

1. The present tense shall be construed to include the past and future tenses and the past and future tenses shall be construed to include the present tense as required by the context to elicit all information discoverable within the broadest scope of these document requests.
2. The singular shall be construed to include the plural and the plural shall be construed to include the singular as required by the context to elicit all information discoverable within the broadest scope of these document requests.
3. "And" and "or" have both conjunctive and disjunctive meanings as required by the context to elicit all information discoverable within the broadest scope of these document requests.
4. "Any" and "all" shall mean "each and every."

42. All documents, including but not limited to all communications, studies, reports, research, surveys, projections, and data, that Pandora reviewed or relied upon in deriving its proposed royalty rate in this proceeding.
43. All documents produced by Pandora in *In Re Petition of Pandora Media, Inc.*, Case No. 12-CV-8035 (S.D.N.Y) and *In re Petition of Broadcast Music, Inc.*, Case No. 1:13-CV-04037 (S.D.N.Y).

Respectfully submitted,



Glenn D. Pomerantz (CA Bar 112503)

Kelly M. Klaus (CA Bar 161091)

Anjan Choudhury (DC Bar 497271)

MUNGER, TOLLES & OLSON LLP

355 S. Grand Avenue, 35th Floor

Los Angeles, CA 90071-1560

Telephone: (213) 683-9100

Facsimile: (213) 687-3702

Glenn.Pomerantz@mto.com

Kelly.Klaus@mto.com

Anjan.Choudhury@mto.com

Counsel for SoundExchange, Inc.

CERTIFICATE OF SERVICE

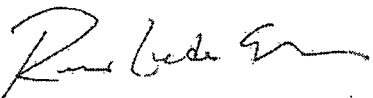
I, the undersigned, hereby certify that on October 13, 2014, I caused a copy of (1) **SOUNDEXCHANGE'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS, RESTRICTED VERSION**, and (2) **SOUNDEXCHANGE'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS, PUBLIC VERSION** to be served by U.S. FIRST CLASS MAIL and EMAIL to the Participants as indicated below:

Participants

David Oxenford WILKINSON BARKER KNAUER, LLP 2300 N Street, NW, Suite 700 Washington, DC 20037 doxenford@wbklaw.com Telephone: (202) 373-3337 Facsimile: (202) 783-5851 <i>Counsel for Educational Media Foundation and National Association of Broadcasters (NAB)</i>	Kenneth L. Steinthal Joseph R. Wetzel Ethan Davis KING & SPALDING LLP 101 Second Street, Suite 2300 San Francisco, CA 94105. ksteinthal@kslaw.com jwetzel@kslaw.com edavis@kslaw.com Telephone: (415) 318-1200 Facsimile: (415) 318-1300 <i>Counsel for National Public Radio, Inc. (NPR)</i>
Jeffrey J. Jarmuth Law Offices of Jeffrey J. Jarmuth 34 E. Elm Street Chicago, IL 60611-1016 Telephone: (312) 335-9933 Facsimile: (312) 822-1010 Jeff.jarmuth@jarmuthlawoffices.com <i>Counsel for AccuRadio, LLC</i>	Paul Fakler Martin Cunniff Jackson Toof Arent Fox LLP 1675 Broadway New York, NY 10019 Paul.Fakler@arentfox.com Martin.Cunniff@arentfox.com Jackson.Toof@arentfox.com <i>Counsel for Sirius XM Radio Inc.</i>

<p>Mark Hansen, John Thorne Evan Leo, Scott Angstreich, Kevin Miller, Caitlin Hall, Igor Helman, Leslie Pope, Matthew Huppert KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C. 1615 M Street, NW, Suite 400 Washington, DC 20036 Mhansen@khhte.com Jthorne@khhte.com eleo@khhte.com sangstreich@khhte.com kmiller@khhte.com chall@khhte.com ihelman@khhte.com lpope@khhte.com mhuppert@khhte.com Telephone: (202) 326-7900 Facsimile: (202) 326-7999 <i>Counsel iHeartMedia, Inc.</i></p>	<p>William Malone 40 Cobbler's Green 205 Main Street New Canaan, CT 06840 Malone@ieee.org Telephone: (203) 966-4770 <i>Counsel for Harvard Radio Broadcasting Co., Inc. (WHRB) and Intercollegiate Broadcasting System, Inc. (IBS)</i></p>
<p>Karyn Ablin Jennifer Elgin WILEY REIN LLP 1776 K St. N.W. Washington, DC 20006 kablin@wileyrein.com jelgin@wileyrein.com Telephone: (202) 719-7000 Facsimile: (202) 719-7049 <i>Counsel for National Religious Broadcasters NonCommercial Music License Committee (NRBNMLC)</i></p>	<p>Bruce Joseph, Karyn Ablin Michael Sturm, Jillian Volkmar WILEY REIN LLP 1776 K Street, NW Washington, DC 20006 bjoseph@wileyrein.com kablin@wileyrein.com msturm@wileyrein.com JVolkmar@wileyrein.com Telephone: (202) 719-7000 Facsimile: (202) 719-7049 <i>Counsel for National Association of Broadcasters (NAB)</i></p>
<p>Jacob B. Ebin Akin Gump Strauss Hauer & Feld LLP One Bryant Park Bank of America Tower New York, NY 10036-6745 jebin@akingump.com Telephone: (212) 872-7483 Facsimile: (212) 872-1002 <i>Counsel for Pandora Media Inc.</i></p>	<p>R. Bruce Rich, Todd Larson Sabrina Perelman WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153 r.bruce.rich@weil.com todd.larson@weil.com Sabrina.Perelman@weil.com Telephone: (212) 310-8170 Facsimile: (212) 310-8007 <i>Counsel for Pandora Media, Inc.</i></p>

Gary R. Greenstein
WILSON SONSINI GOODRICH & ROSATI
1700 K Street, NW, 5th Floor
Washington, DC 20006
ggreenstein@wsgr.com
Telephone: (202) 973-8849
Facsimile: (202) 973-8899
Counsel for Pandora Media Inc.



Rose Leda Ehler

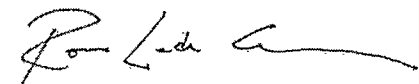
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on October 13, 2014, I caused a copy of
SOUNDEXCHANGE'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS, PUBLIC VERSION to be served by U.S. FIRST CLASS MAIL and EMAIL
to the Participants as indicated below:

Participants

<p>Kurt Hanson AccuRadio, LLC 65 E. Wacker Place, Suite 930 Chicago, IL 60601 kurt@accuradio.com Telephone: (312) 284-2440 Facsimile: (312) 284-2450 <i>AccuRadio, LLC</i></p>	<p>George Johnson GEO Music Group 23 Music Square East, Suite 204 Nashville, TN 37203 george@georgejohnson.com Telephone: (615) 242-9999 <i>GEO Music Group</i></p>
<p>Kevin Blair Brian Gantman Educational Media Foundation 5700 West Oaks Boulevard Rocklin, CA 95765 kblair@kloveair1.com bgantman@kloveair1.com Telephone: (916) 251-1600 Facsimile: (916) 251-1731 <i>Educational Media Foundation</i></p>	<p>Donna K. Schneider Associate General Counsel, Litigation & IP iHeartMedia, Inc. 200 E. Basse Rd. San Antonio, TX 78209 DonnaSchneider@iheartmedia.com Telephone: (210) 832-3468 Facsimile: (210) 832-3127 <i>iHeartMedia, Inc.</i></p>
<p>Frederick Kass Intercollegiate Broadcasting System, Inc. (IBS) 367 Windsor Highway New Windsor, NY 12553-7900 ibs@ibsradio.org ibshq@aol.com Telephone: (845) 565-0003 Facsimile: (845) 565-7446 <i>Intercollegiate Broadcasting System, Inc. (IBS)</i></p>	<p>Jane Mago, Esq. Suzanne Head 1771 N Street, NW Washington, DC 20036 jmago@nab.org shead@nab.org Telephone: (202) 429-5459 Facsimile: (202) 775-3526 <i>National Association of Broadcasters (NAB)</i></p>

<p>Russ Hauth, Executive Director Harv Hendrickson, Chairman 3003 Snelling Avenue, North Saint Paul, MN 55113 russh@salem.cc hphendrickson@unwsp.edu Telephone: (651) 631-5000 Facsimile: (651) 631-5086 <i>National Religious Broadcasters NonCommercial Music License Committee (NRBNMLC)</i></p>	<p>Gregory A. Lewis National Public Radio, Inc. 1111 North Capital Street, NE Washington, DC 20002 glewis@npr.org Telephone: (202) 513-2050 Facsimile: (202) 513-3021 <i>National Public Radio, Inc. (NPR)</i></p>
<p>Patrick Donnelly Sirius XM Radio, Inc. 1221 Avenue of the Americas 36th Floor New York, NY 10020 patrick.donnelly@siriusxm.com Telephone: (212) 584-5100 Facsimile: (212) 584-5200 <i>Sirius XM Radio Inc.</i></p>	<p>Cynthia Greer Sirius XM Radio, Inc. 1500 Eckington Place, NE Washington, DC 20002 cynthia.greer@siriusxm.com Telephone: (202) 380-1476 Facsimile: (202) 380-4592 <i>Sirius XM Radio Inc.</i></p>
<p>Christopher Harrison Pandora Media, Inc. 2101 Webster Street, Suite 1650 Oakland, CA 94612 charrison@pandora.com Telephone: (510) 858-3049 Facsimile: (510) 451-4286 <i>Pandora Media, Inc.</i></p>	


Rose Leda Ehler

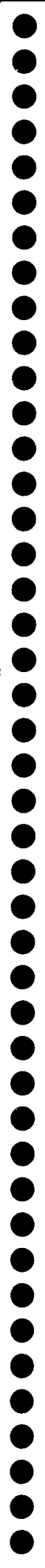


Exhibit K

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In re:)	
)	
DETERMINATION OF ROYALTY)	Docket No. 14-CRB-0001-WR (2016-2020)
RATES AND TERMS FOR EPHEMERAL)	
RECORDING AND DIGITAL)	
PERFORMANCE OF SOUND)	
RECORDINGS (<i>WEB IV</i>))	

**SOUNDEXCHANGE, INC.'S RESPONSES AND OBJECTIONS TO SECOND
SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS FROM
LICENSEE PARTICIPANTS**

GENERAL OBJECTIONS

1. SoundExchange, Inc. ("SoundExchange") objects to the Requests, including all Definitions and Instructions, to the extent they purport to impose upon SoundExchange requirements that exceed or are inconsistent with 17 U.S.C. § 803(b), 37 C.F.R. § 351.5, and any other applicable rule or order governing this proceeding, including applicable prior precedent.

2. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they seek documents that are not "directly related" to SoundExchange's written direct statement. *See* 17 U.S.C. § 803(b)(6)(C)(v), 37 C.F.R. § 351.5(b).

3. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they are ambiguous, duplicative, and/or vague.

4. SoundExchange objects to the Requests, including all Definitions and Instructions, to the extent they are oppressive, harassing, overbroad and/or unduly burdensome.

purports to suggest that Record Companies coordinate in licensing. SoundExchange further objects to this request as directed at independent record labels for whom searching for such documents is unduly burdensome. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this request to the extent that it is not limited to time periods reasonably related to the matters at issue in this proceeding. For the aforementioned reasons, SoundExchange will not produce additional documents pursuant to this request.

REQUEST FOR PRODUCTION NO. 161:

All documents of the Vevo, MySpace Music, and Spotify Boards of Directors discussing or referring to each such service's licensing of sound recordings or musical works, including, without limitation, meeting minutes and Board presentations. (*See e.g.*, Rubinfeld ¶¶ 16, 27-29, 119, 157-72, 193-97, 204-28, 240-50, Ex. 16c, App. 1a, App. 1e, App. 1f, App. 2; Harrison ¶ 19; Blackburn ¶¶ 41, 50.)

RESPONSE TO REQUEST FOR PRODUCTION NO. 161:

SoundExchange objects to this request to the extent it seeks documents not "directly related" to SoundExchange's written direct statement. The mere mention of these services does not sweep into discovery "all documents" from those services. SoundExchange objects to this request as overly broad, nonspecific, unduly burdensome, oppressive and harassing.

SoundExchange has not provided a witness from Vevo, MySpace Music, or Spotify as these are services not copyright owners. SoundExchange further objects to this Request as it seeks documents related to these services' licensing of "musical works," which are not even at issue in this proceeding. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce

documents so protected. SoundExchange objects to this request to the extent that it is not limited to time periods reasonably related to the matters at issue in this proceeding. SoundExchange already produced documents that were relied upon in preparing SoundExchange's witnesses' written direct testimony. For the aforementioned reasons, SoundExchange will not produce additional documents pursuant to this request.

REQUEST FOR PRODUCTION NO. 162:

All agreements between Vevo, MySpace Music, or Spotify, on one hand, and any independent Record Company on the other hand. (*See, e.g.*, Rubinfeld ¶¶ 16, 27-29, 119, 157-72, 193-97, 220-25, 204-28, 240-50, Ex. 16c, App. 1a, App. 1e, App. 1f, App. 2; Harrison ¶ 19; Blackburn ¶¶ 41, 50.)

RESPONSE TO REQUEST FOR PRODUCTION NO. 162:

SoundExchange objects to this request to the extent it seeks documents not "directly related" to SoundExchange's written direct statement. Despite citing numerous paragraphs of testimony, it appears that the Services have made no effort to tailor the request to SoundExchange's written direct testimony. In particular, this request cites testimony from Mr. Harrison, a witness from Universal Music Group, not an independent record company. SoundExchange objects to this request as overly broad, nonspecific, unduly burdensome, oppressive and harassing. SoundExchange further objects to this as "broad" and "nonspecific" as it seeks documents from every "independent Record Company," as defined in paragraph 6 which includes documents from all independent "SoundExchange member compan[ies]." SoundExchange further objects to this request as directed at independent record labels for whom searching for such documents is a particularly undue burden. SoundExchange further objects to this request to the extent it seeks information and documents protected from discovery by the attorney-client privilege and work-product doctrine. SoundExchange asserts all such privileges and protections and will not produce documents so protected. SoundExchange objects to this

already produced documents that were relied upon in preparing SoundExchange's witnesses' written direct testimony. SoundExchange also produced numerous responsive documents in response to the Services' First Set of Requests for Documents.

Respectfully submitted,

By: /s/ Rose Leda Ehler
Glenn D. Pomerantz (CA Bar 112503)
Kelly M. Klaus (CA Bar 161091)
Anjan Choudhury (DC Bar 497271)
Rose Leda Ehler (CA Bar 296523)
MUNGER, TOLLES & OLSON LLP
355 S. Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
Facsimile: (213) 687-3702
Glenn.Pomerantz@mto.com
Kelly.Klaus@mto.com
Anjan.Choudhury@mto.com

Counsel for SoundExchange, Inc.

December 3, 2014